

LETTER

FROM

THE SECRETARY OF STATE,

TO THE

Chairman of the Committee on Foreign Relations, communicating the report of Governor Stevens, of Washington Territory, to the Department of State, of June 21, 1854, relative to the property of the Hudson's Bay and Puget's Sound Company in that Territory.

FEBRUARY 7, 1855.—Read and ordered to be printed.

DEPARTMENT OF STATE,
Washington, February 7, 1855.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday; and, in compliance with the request therein contained, transmit a copy for the printer of the report of Governor Stevens, of Washington Territory, to this department, of the 21st June last, relative to the property of the Hudson's Bay and Puget's Sound Company in that Territory.

I have the honor to be, very respectfully, your obedient servant,
W. L. MARCY.

Hon. JAMES M. MASON,
Chairman of the Committee on Foreign Relations, Senate.

Governor Stevens to Mr. Marcy.

WASHINGTON, June 21, 1854.

SIR: In pursuance of your instructions of June 3, 1853, directing me to furnish a statement of the property of all descriptions within the Territory of Washington, as well as in Oregon, claimed by the Hudson's Bay Company and the Puget's Sound Agricultural Company, and to present a fair estimate of its value, I have the honor to submit the following report:

Upon examining the subject committed to me for my views, I at once perceived that a broad difference would exist between the government of the United States and the companies in question, as to the value and extent of their rights and possessions. Claims of a most extravagant character have been set up by these companies, in view of propositions which have been made to the government of the United States, to acquire by purchase and extinguish all the rights and claims

of the Hudson's Bay Company and the Puget's Sound Agricultural Company within the territory of the United States, whether secured by treaty or otherwise, legally acquired and held by these companies.

The claims of these companies are presented in a pamphlet entitled "Extent and value of the possessory rights of the Hudson's Bay Company in Oregon, south of the forty-ninth degree," containing opinions of American and Canadian counsel.

In this pamphlet it is assumed that the possessory rights of the Hudson's Bay Company extend over the whole territory north of the Columbia river, and that in this territory, south of the forty-ninth degree of latitude, the United States have merely the sovereignty with a naked fee, encumbered with a right of occupation by the Hudson's Bay Company, which is valid until extinguished by transfer, and would bar ejectment. It is also assumed that the farms, lands, and other property of the Puget's Sound Agricultural Company, to the full extent of their claims, are fully confirmed by the 3d article of the treaty of 1846. The Hudson's Bay Company further maintain that the right of trading with the Indians is included among the possessory rights which are to be respected by the terms of the treaty, and they declare that "it is in the utmost degree improbable that the high contracting parties, the framers of the treaty, ever contemplated denying the company one of the most important rights it possessed."—(See letter of Mr. Tolmie, chief trader of Hudson's Bay Company.)

The first point of inquiry is as to the validity of the claims thus asserted.

By the treaty of 1846 the territory south of the 49th degree of latitude was ceded to the United States, or rather it was determined that the right of sovereignty of this territory which had been claimed by both governments was in the United States. It will be acknowledged that if a territory is ceded by treaty the right of the State ceding such territory, and the rights of individuals and corporations deriving from such State, are wholly extinguished. The rights of individuals depend upon the State to which the cession is made. The obligation of the State receiving the cession does not extend beyond the express terms of the treaty. By the treaty of 1846 the government of the United States pledged itself in future appropriations of the territory to respect the possessory rights of the Hudson's Bay Company, and of all the British subjects who may have been at the date of the treaty in the occupation of land or other property lawfully acquired within said territory, and also to confirm the farms, lands and other property of every description belonging to the Puget's Sound Agricultural Company.

It is apparent that the government of the United States simply pledged itself to continue the policy which it had invariably pursued, in its successive acquisitions of territory, towards the actual occupants of the soil. In the 9th article of the treaty of 1794 with Great Britain, it was agreed "that British subjects who now hold lands in territories of the United States shall continue to hold them according to the nature and tenures of their respective estates." In the treaty of cession by Spain to the United States of East and West Florida, it was stipulated that previous grants of land by the Spanish government should be confirmed to the persons in *possession*. In the treaty for the cession of Louisiana by

France, it was agreed by the United States that the private rights and interests of lands should be secure, and the inhabitants protected in their property. By these treaties and the acts of Congress founded upon them, the United States has acknowledged that certain rights of property were acquired by the actual occupation and improvement of land before unappropriated from the public domain.

The terms of the treaty of 1846 clearly show that the United States had simply in view the continuance of its established policy towards the occupants of the soil. The rights to be respected were only territorial rights, for the treaty declares that in future *appropriations* of the territory the possessory rights, &c., are to be respected. These rights have relation only to the "*appropriation*" of territory. The occasion for respecting them does not arise until such appropriation is made.

Again, it is the *possessory* rights relating to our interfering with the appropriation of territory which are to be respected. The term "*possessory*" is either one of surplusage or limitation. If the former, which seems to be the view assumed by the Hudson's Bay Company and the counsel whose opinions are given in the pamphlet alluded to, the meaning of the provision is that *all* the *rights* which the Hudson's Bay Company possessed at the date of the treaty are to be respected. The effect of this construction would be to admit the right of the company to make laws, to have civil and criminal jurisdiction, and to have the exclusive right of trade; all which rights the company possessed under their charter at the date of the treaty. This provision then would invest the actual sovereignty of the country ceded, not in the United States, but in a foreign corporation.

As this construction is manifestly inconsistent with the purpose of the treaty, the term "*possessory*" must be one of limitation. The effect of this limitation is clearly determined by the context. The treaty provides in the same terms for respecting the possessory rights of the Hudson's Bay Company, and of all British subjects who may be in the occupation of land lawfully acquired. The precise language is—"In future appropriations of the territory south of the 49th parallel of north latitude, as provided in the first article of this treaty, the possessory rights of the Hudson's Bay Company and of all British subjects who may be already in the occupation of land or other property lawfully acquired within the said territory shall be respected."

The Hudson's Bay Company stand on the same footing as all British subjects already in the occupation of land. The possessory rights of all are such as are derived from the *occupation* of the land, and are limited to them. If other corporations established by law, having similar possessory rights, had existed in the territory, the language of the treaty would obviously have been "the possessory rights of all British corporations and subjects who may be already in the occupation, &c., are to be respected." The express mention of the Hudson's Bay Company cannot be considered as establishing a distinction between its possessory rights and those of British subjects, derived from occupation in the absence of any language defining such a distinction. The plenipotentiaries on the part of Great Britain could not have been regardless of the interests or ignorant of the nature of the Hudson's Bay Company, and would not have failed to secure the vast rights now

claimed by terms admitting of no doubtful interpretation, if such had been their purpose.

The circumstance that express provision is made in another article for securing the interests of the Puget's Sound Agricultural Company, cannot be regarded as indicating a distinction between the rights of these companies, or between these companies and individuals. As there is reason to believe that the Puget's Sound Agricultural Company is an informal association, and has no legal corporate existence, it seems to have been specially mentioned in the treaty for the purpose of securing its future recognition, notwithstanding the want of legal formality in its original institution.

In defining the possessory rights of the Hudson's Bay Company, the United States are to regard them in the same light as those of individuals who have actually occupied lands. It is clear that the possessory rights of such individuals would be limited to actual erections, inclosures, and lands cultivated and improved. These rights are held by mere occupancy. They vest no interest in the soil, and are lost the moment such occupancy is abandoned. It is admitted that an entry into possession of a tract of land, under a deed containing specific metes and bounds, gives a *constructive* possession of the whole tract, if not in adverse possession, although there may be no fence or inclosure around the ambit of the tract, and an actual residence on only a part of it. But it is conceived that the term *occupation* has a more restricted meaning, and is applied to lands and property *actually used* and improved. It is in this sense that Blackstone and Locke use the term in treating of the mode in which titles to land were originally acquired.

When the established policy and nature of the Hudson's Bay Company are considered, it is apparent that to allow them to claim possessory rights over the whole country north of the Columbia river, and below the 49th parallel of latitude, would be inconsistent with the right recognized by the United States and all civilized nations to appropriate for purposes of settlement and agriculture territory occupied by unsettled and sparsely scattered hunters and fishermen. The profits of this company have been derived principally from trading with the Indians and scattered voyagers and hunters, who have exchanged the products of the forests for their goods. It has been the policy of the company to discourage agricultural emigrants, and to keep the greater portion of the territory a mere wilderness, or a vast preserve for game. Vattel has observed that the cultivation of the soil is an obligation imposed by nature upon mankind, and he and other writers upon natural law place but little value upon the territorial rights of people sparsely inhabiting vast regions, and drawing their subsistence chiefly from the forest. In this view it would be difficult to distinguish the territorial rights of this company from those of the people fast disappearing before the steps of civilization on this continent.

In estimating the value of the possessory rights of the Hudson's Bay Company, it must be borne in mind that these rights, being simply those of occupancy and incapable of being transferred to purchasers, must terminate at the expiration of the term during which their privileges in the territory exist by their charters. The rights which the Hudson's Bay Company had in the territory lying between the Colum-

bia river and the forty-ninth parallel of north latitude, were not derived from their original charter, which gave them a perpetual grant of the following named territories, viz: "All those seas, straits, bays, rivers, lakes, creeks, and sounds, in whatever latitude they shall be, that lie within the entrance of the straits commonly called Hudson's straits, together with all the lands, countries, and territories, upon the coasts and confines of the seas, straits, bays, lakes, rivers, creeks, and sounds aforesaid, which are not now actually possessed by any of our subjects, or by the subjects of any other Christian prince or State."

They occupied the land in the territory south of the forty-ninth parallel of latitude and north of the Columbia river, under the authority of a grant bearing date December 5, 1821, giving the company "an exclusive right of trading in all such parts of North America to the northward and westward of lands and territories of the United States as do not form any part of our provinces of North America or the United States. This grant was given for a period of twenty-one years, at the end of which time it was renewed for a further period of twenty-one years. As the crown has no power to renew the charter of a company in the territory of the United States, and the company cannot transfer rights of occupation, all the possessory rights of the Hudson's Bay Company will be extinguished in the year 1863. The question addresses itself to the liberality of the United States, whether a broad view of the spirit of the treaty may not render it expedient to disregard the limitations of the grant, and to concede to the company the same perpetual rights as to individuals.

It is pretended that by the fourth article of the treaty of 1846, the lands and farms of the Puget's Sound Agricultural Company *are confirmed* to them to the full extent of their claims, and that this provision vests the absolute fee of such farms and land in the company, subject only to the right of purchase by the United States. This view I conceive to be wholly inconsistent with the terms of the treaty.

The fourth article of the treaty is as follows: "The farms, lands, and other property of every description belonging to the Puget's Sound Agricultural Company, on the north side of the Columbia river, shall be confirmed to the said company. In case, however, the situation of these farms and lands should be considered by the United States government to be of public and political importance, and the United States government should signify a desire to obtain possession of the whole or any part thereof, the property so required shall be transferred to the said government at a proper valuation to be agreed upon by the parties."

In the case of *Foster & Elam vs. Neilson*, 2 Peters, 314, the Supreme Court of the United States carefully considered the effect of a provision in the eighth article of the treaty with Spain of 1819, containing terms similar to those of the fourth article of the treaty of 1846. In this case the court say "whatever difference may exist respecting the effect of the ratification, in whatever sense it may be understood, we think that the sound construction of the eighth article will not enable this court to apply its provisions to the present case. The words of the article are: "All the grants of land made before January 24, 1818, by his Catholic majesty, &c., shall be ratified and confirmed to the persons in pos-

session of the lands to the same extent that the same grants would be valid if the territories had remained under the dominion of his Catholic majesty. Do these words act directly on the grants, so as to give validity to those not otherwise valid, or do they pledge the faith of the United States to pass acts which shall ratify and confirm them.

A treaty is, in its nature, a contract between two nations. It does not generally effect, of itself, the object to be accomplished, especially so far as its operation is infraterritorial; but it is carried into execution by the sovereign power of the respective parties to the instrument.

In the United States a different principle is established. Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the legislature whenever it operates of itself without the aid of any legislative provision. But when the terms of the stipulation impart a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not to the judicial, department, and the legislature must excuse the contract before it can become a rule for the court.

The article under consideration does not declare that all the grants made by his Catholic majesty before the 24th of January, 1818, shall be valid to the same extent as if the ceded territories had remained under his dominion. It does not say that these grants are hereby confirmed. Had such been its language, it would have acted directly upon the subject, and would have repealed those acts of Congress which are repugnant to it; but its language is, that those grants shall be ratified and confirmed. This seems to be the language of contract, and, if it is, the ratification and confirmation which are promised must be the act of the legislature. Until such act is passed, the court is not at liberty to disregard the existing laws on the subject. The court then proceed to refer to various acts of Congress, showing that Congress appear to have understood this article as understood by the court.

Afterwards, in the case of the United States *vs.* Perchman, 7 Peters, p. 86, in reviewing these words of the 8th article of the treaty of 1819, the court held that the words used were words of present confirmation by the treaty where the land had been rightfully granted before the cession. In the case of Garcia *vs.* Lee, 12 Peters, 520, the court reviewed their opinion in the case of the United States *vs.* Perchman, and say: "This language was, however, applied by the court, and intended to apply to grants made in a territory which belonged to Spain at the time of the grant. It was in relation to a grant of land in Florida which unquestionably belonged to Spain at the time the grant was made, and where the Spanish authorities had an undoubted right to grant until the cession of 1819. It is of such grants that the court speak when they declare them to be confirmed and protected by the true construction of the treaty, and that they do not need the aid of an act of Congress to ratify and confirm the title of the purchaser."

"But they do not, in any part of the last mentioned case, apply this principle to grants made by Spain within the limits of Louisiana in the territory which belonged to the United States according to the true boundary."

This case is conclusive as to the point in question. The territory

north of the Columbia river, beyond the forty-ninth parallel of latitude, had always been claimed by the United States. The treaty of 1846 determined that the true boundary was the forty-ninth parallel of north latitude, and that the territory south of that parallel belonged to the United States. The British authorities had no right to grant in that territory. The farms and lands of the Puget's Sound Agricultural Company, by the principle of these decisions, are not confirmed, and the "confirmation promised must be the act of the legislature."

Both of the companies referred to claim certain rights distinct from the lands actually occupied and improved by them, such as the right of felling timber in the forests, and the right of grazing large tracts of unenclosed pasture and prairie lands with immense herds of cattle and flocks of sheep.

The right of felling timber would seem to be limited to the right of estovers, as known in the common law, which would give them simply the right to use timber for fuel, for building, and farm purposes, on the lands actually improved or enclosed by them, and would give them no right to appropriate timber for sale or exportation.

Vast herds of cattle and flocks of sheep claimed to belong to these companies, which have become totally wild and unreclaimed, and are now as truly *feræ nature* as the native buffalo and deer, are suffered to roam over the territory, eating bare the pastures, and invading the fields of the settlers. It is clear that in using unappropriated lands for pasturage, these companies should not have the exclusive use of such lands, and should be restricted to the right of common pasture known in the English common law, which would give them no exclusive privileges, and would restrict their cattle and sheep to the number actually *levant et couchant* upon the farms which they have enclosed and improved.

I have been guided by the views above presented in seeking information relative to the property of these companies within the Territories of Washington and Oregon, and in making an estimate of its value, and now proceed to give the statements and estimates demanded by your instructions.

These statements are mostly founded upon personal observation, as I have visited, myself, Fort Colville, Fort Wallah Wallah, Fort Vancouver, the granary at the mouth of the Cowlitz, the Cowlitz Farms, and Fort Nisqually. The gentlemen connected with me in the recent exploration visited Fort Hall, the Flat-head post, and Fort Okanagon. The remaining posts and property, it will be observed, are inconsiderable in character and extent. I am indebted to Colonel Isaac N. Ebey and George Gibbes, esq., for valuable notes descriptive of these possessions.

The principal establishment of the Hudson's Bay Company, within the territory of the United States, is Fort Vancouver, on the Columbia river. This is the parent establishment, whence the others are supplied with goods.

The post is enclosed by a stockade of 200 by 175 yards, twelve feet in height, and is defended by bastions on the northwest and southeast angles, mounted with cannon. Within are the governor's house, two smaller buildings used by clerks, a range of dwellings for families, and

five two-story warehouses, besides offices. Without there is a large warehouse, at present hired by the United States. These are all built of square logs, framed together. The buildings within the enclosure are old and considerably decayed, only the repairs necessary to keep them in tenatable order having of late years been expended. Outside the enclosure are about twenty cabins, occupied by servants, Kanakas, and Indians. These cabins are, with few exceptions, built of slabs. Most of them are untenanted and left to decay.

The lands in cultivation about Fort Vancouver, at the date of the treaty, did not exceed two hundred and fifty acres. Since that time many of the inclosures have been broken up, and lands formerly cultivated have become a waste.

Besides their broad claim to the whole territory, the Hudson's Bay Company make a particular claim to several tracts in the vicinity of Fort Vancouver: first, the plain on which the fort and the United States barracks are situated, with a small plain behind it, making in all a tract of about four miles square. Adjoining this, above Fort Vancouver, they claim another tract known as the "Mill claim," two and a half by three quarter miles square. On this claim is a saw-mill, now in operation, which has been built since the treaty. A grist-mill was erected in 1836, but is now nearly worthless. A new mill frame was erected at this place in 1847, but has been never completed. At this mill there is a storehouse and miller's house, both built of logs with shingle roofs.

In the vicinity of these mills, at the date of the treaty, the Hudson's Bay Company had about two thousand acres of land under cultivation, with farm houses, barns, and outbuildings. Since that period, the cultivated land and inclosures have been reduced to about a thousand acres, and the buildings have been left to decay.

These, as far as I could ascertain, embrace the whole of the improvements of the company in the vicinity of Fort Vancouver, if we except a few sheep-pens long since abandoned, which were at one time on the possessions below the fort.

I estimate the value of the erections and improvements in and about Fort Vancouver, and those about the saw and grist-mill, including the mills, dwelling houses, storehouses, farms, barns, &c., at the sum of fifty thousand dollars.

The business at this post has changed with the condition of the country since the treaty, and is now almost entirely mercantile and carried on with the settlers. Comparatively a small amount of Indian goods is now imported, that description of merchandize being sent to the posts in the British territory by way of Victoria. What trade with the Indians is carried on here is the ordinary retail trade of country stores, and for cash. The amount of the general business of the company in this territory may be gathered from their imports during 1853.

These consisted of one cargo of assorted American goods from New York, and another, valued at about £19,000, from London, paying duties to the amount of nearly \$24,000. A considerable portion of these were sold on commission at Portland, Oregon City, and other places in the Willamette Valley.

The next post above Vancouver is Fort Wallah Wallah on the Co-

lumbia river, below the entrance of the Snake. There are here three or four one-story adobe buildings, with offices, enclosed by a wall of the same material, some thirty-five yards on each side, having a bastion at one angle. It is almost wholly valueless except as a station where horses can be kept for the trains. There is, indeed, some trade with the Indians, chiefly in cash, but not enough to warrant the maintenance of the post for that purpose alone. The fort is in very indifferent repair, and the country in the immediate neighborhood a desert of drifting sand. The force at this post consists of a chief clerk, one interpreter, two traders, and six men, Canadians and Indians.

Some eighteen or twenty miles up the Wallah Wallah river is a so-called farm, on which are two small hovels, each consisting of a single room occupied by a servant and an Indian employed as herdsman. There was formerly a dam at this place for irrigation, but it is broken down. Five thousand dollars I consider a large estimate for the value of these two establishments.

Fort Colville, upon the Columbia above Kettle Falls, is next in importance to Fort Vancouver, though far inferior to it in extent. It is situated on the second terrace at some distance back from the river, the lower terrace being in part flooded during the freshets. The buildings consist of a dwelling-house, three or four store-houses, and some smaller buildings used as blacksmith shops, &c., all of one story, and constructed of squared logs. The whole was once surrounded by a stockade, forming a square of about seventy yards on each side. This has been removed, except on the north side, where it encloses a narrow yard containing offices. One bastion remains. About thirty yards in the rear of this square are the cattle yards, hay sheds, &c., enclosing a space of forty by sixty yards, roughly fenced in, and the sheds covered with bark. On the left of the front are seven huts occupied by the lower employees of the company. They are of rude construction, and much decayed. On the right of the square, in the rear, at a distance of a few hundred yards, are three more buildings used for storing produce. At this post the barges used by the company for the navigation of the Columbia river are built.

Besides the principal establishment, there is a cattle post about nine miles distant, on the stream laid down as the Slaun-to-as, and a grist-mill of one pair of stones, three miles off on the same stream. The latter is in good order. Here formerly the flour for the northern posts was ground from wheat raised on the company's farms. The mill is still used by the farmers of the Colville Valley, and by the Spokane Indians, who bring here their wheat from a distance of seventy miles. The farm at this point was once pretty extensive, but only a small portion is cultivated at present.

Fort Colville was once the post of a chief factor, the highest officer in charge of a station, and here the annual accounts of the whole country were consolidated previous to transmission across the mountains. The present force consists only of a chief clerk, a trader, and about twenty Canadians and Iroquois Indians.

I estimate the value of Fort Colville and the mill, with the improvements, at twenty-five thousand dollars.

Below Fort Colville is Fort Okonagon, situated on a level plain on

the right bank of the Columbia, a little above the mouth of the Okmakaine river, and not far from the site of one of Mr. Astor's posts. The fort consists of three small houses, with a stockade. There were formerly some out-buildings, but they have been suffered to decay. There is no appearance here of trade, and no goods are on hand. A few furs only are taken, and the post does not probably pay its expenses.

Fort Koutamie, upon the great bend of the Flatbow river, and not far from the Flathead lake, is an inferior post, in charge of a Canadian as trader and postmaster, and one Canadian and a half-breed under him. There is also a post called the Flathead post, east of the Flathead lake, on one of its small tributaries. The three last named posts, in connexion with the right of pasturage on Clark's Fork, enjoyed by the company in common with the Indians, I estimate at five thousand dollars.

The above constitute all the posts of the Hudson's Bay Company, situated in Washington Territory, east of the Cascades, and north of the 46th degree.

There are in Oregon Territory and east of the mountains only two posts. Fort Hall, at the head of the Snake river, and Boise, upon the same, nearly opposite the mouth of the Owyhee. The latter is merely a stopping place, occupied by a trader and a few Kanakas. The former is a more important one, from its opportunities for trade with the emigrants and with the Salt Lake. Lieutenant Mullen, who visited this post in the winter, found a chief clerk in charge, and the supplies limited; it is only a third rate post. Considering the favorable position of these two posts, I estimate them at fifteen thousand dollars.

West of the Cascades in Oregon Territory, the principal post is Fort Umpqua, on the Umpqua river. This was destroyed by fire two or three years since.

The other possessions consist of a house and granary at Champoes, on the Willamette; one acre of ground below the falls at Oregon city, purchased from an American; a farm of six hundred and forty acres, on Souvries island, at the mouth of the Willamette, with a house, dairy, and garden; the buildings about six years old. The old buildings at Victoria are of no value whatever.

I estimate the value of the last posts, lands and improvements, at fifteen thousand dollars.

In Washington Territory, west of the Cascades, the only post of the company of any importance is Fort Nisqually, on lands claimed by the Puget's Sound Agricultural Company. It is situated at some distance from the water, on high, undulating prairie, and is a cluster of small buildings of no great value, within a stockade. The trade here is principally with the settlers. Besides this, there is a granary and about five acres of land two miles above the mouth of the Cowlitz river—a tract of land on Cape Disappointment, occupied by an old servant, and a small store and lot of ground near Chinook. Fort Nisqually will be estimated in connexion with the property of the Puget's Sound Agricultural Company. The property at the mouth of the Cowlitz, on Cape Disappointment and near Chinook, I estimate at five thousand dollars.

With the exception of Fort Vancouver, it is believed that none of the posts above mentioned are worth maintaining for any other purpose than that of holding the property until a sale can be effected. The condition of the whole country is completely changed since they were established, the company being now little else than general merchants. At all points of general importance, they meet with competition from our own citizens; and, whenever it will repay the enterprise, the same competition will follow them elsewhere.

I do not deem it important that the rights of the company in the territory should be extinguished, on account of their undue or unfavorable influence upon the Indians. The relations of the company with the Indians, though not less friendly, are far less intimate than they have been. Even the more distant tribes now frequent the towns, attracted partly by novelty and partly by the opportunities afforded for earning money by labor. Most of them comprehend that the influence of the company has departed.

Although the company, as traders, have endeavored to secure to themselves every advantage, and although their action, in some cases, has borne heavily upon the settlers in every matter between a white man and an Indian, they have sustained the white, of whatever nation.

In this connexion I deem it due to the company to refer to an incident reflecting the highest credit upon an officer of the company, which occurred during the winters of 1846-'47, and the particulars of which I have from Mr. Stanley, who was a personal witness of the transaction. The Cayuses Indians made an incursion upon the mission of Dr. Whitman on the Wallah Wallah river; killed Dr. Whitman and his wife, and captured several women and children. A factor, one or two Catholic priests and Mr. Stanley, since artist of the expedition which I commanded, were confined at Fort Wallah Wallah by the hostility of the Indians. As soon as this event was known at Fort Vancouver, Governor Ogden, the chief factor of the company, immediately proceeded to Wallah Wallah, and at the risk of his own life redeemed the captives with goods which he had carried with him for that purpose. For the expenditure on this occasion, it may be mentioned, the company have never requested or received payment.

The Puget's Sound Agricultural Company claim a tract of land at what is called the Cowlitz Farms. The quantity of land claimed is eight thousand acres, more or less. According to the plat deposited at the surveyor general's office, their tract contains only about three thousand acres. Some years back about fifteen hundred acres of land were under cultivation; but of late years the cultivation of land has been almost entirely abandoned. The fences have been allowed to go to decay; much of the hay even has not been cut. The land, however, is of excellent character, not being surpassed by any in the Territory. The improvements and land I estimate at twenty-five thousand dollars.

The Puget's Sound Agricultural Company claim from near the Nisqually to the Pu-yal-lup rivers, and from the shores of Puget's Sound to the dividing line of the Cascades, a tract of land some sixteen miles by fifty miles, containing some eight hundred square miles, much of which has never even been penetrated by a white man. This tract is claimed in consequence of being used as a range for cattle and sheep

belonging to the Puget's Sound Agricultural Company. It is asserted that some five thousand cattle and sixteen thousand sheep roam at large on this tract. The number is not exactly known, and is probably much over-estimated. The sheep are said to be mostly under the charge of shepherds, but the great proportion of the cattle are now in a state of nature. These cattle and sheep have furnished important supplies to the settlements on Puget's Sound. The post is frequently visited by steamers belonging to the Hudson's Bay Company, which carry away supplies of cattle and sheep for Vancouver's island. The soil of this tract in the vicinity of Puget's Sound is inferior, but judging from the developments made in other portions of the territory, much good land will be found near the mountain slopes. Estimating the quantity of pasturage required for the number of sheep and cattle said to range on this tract, and throwing in favor of the company the grave doubt whether they have not lost the ownership of the greater number of the cattle, I estimate this property at one hundred and fifty thousand dollars.

Recapitulation of possessions of the Hudson's Bay Company, and the Puget's Sound Agricultural Company, within the Territories of Washington and Oregon, and estimates of value.

POSSESSIONS OF HUDSON'S BAY COMPANY.

Fort Vancouver and mill.....	\$50,000 00
Wallah Wallah and vicinity.....	5,000 00
Fort Colville, mill, and improvements.....	25,000 00
Posts on Flatbow and Flathead rivers, and Fort Okanagon.....	5,000 00
Fort Hall and Fort Boissie, in Oregon, east of the Cascades.....	15,000 00
Fort Umpqua, and other property in Oregon, east of the Cascades.....	15,000 00
Property at the mouth of the Cowlitz, on Cape Disappointment, and near Chinook.....	5,000 00

PROPERTY OF THE PUGET'S SOUND AGRICULTURAL COMPANY IN WASHINGTON TERRITORY.

Fort Nisqually.....	150,000 00
Cowlitz farms.....	30,000 00
	<hr/>
	<u>\$300,000 00</u>

I have given the above valuation as the most which, in my opinion, the United States should pay for the purpose of extinguishing all the rights of these companies within their territory. I have given in all cases a liberal estimate, and somewhat above that of the most experienced gentlemen I have consulted. No obligation or imperative necessity is imposed upon the United States to extinguish these rights or purchase this property. But the United States are bound to take immediate steps for making the confirmations promised in the treaty of 1846. Commissioners should be appointed by an act of Congress,

having powers and duties similar to those conferred in pursuance of like treaty provisions. The practice has been to assign this duty to governors of Territories, who are presumed to be well fitted by their public position and their local knowledge and experience, or to appoint special commissioners. It is indispensable that confirmations should be made before a purchase is effected. The act known as the donation law of September 27, 1850, granted to every white settler or occupant of the public lands within the Territory of Oregon, being an American citizen, or having declared his intention to become a citizen, residing within the territory on or before the first day of December, 1850, and who shall have resided upon and cultivated the land upon which he had settled for four consecutive years, the quantity of one-half section of three hundred and twenty acres of land, and if married within one year from the first day of December, 1850, one section of six hundred and forty acres, one half to himself and the other half to his wife.

Many of the chief servants of the Hudson's Bay Company claim as individuals under this law the very tracts claimed by the company. The tract upon which Fort Vancouver stands, to the extent of six hundred and forty acres, is claimed by a chief clerk of the company residing at the fort. These claims have been made with a view of securing the lands to servants of the Hudson's Bay Company, even if the United States should extinguish by purchase the rights of the company. It is important that the extent and boundaries of the lands of the companies should be fixed by confirmation, in order that the companies should be able to give a title to the United States which might bar the settlers' claims. The commissioners should be directed to make a fair estimate of the value of the possessions of the companies, and report the same to Congress, as a basis for its action, in case a purchase should be deemed expedient.

It is hoped that this subject will receive the immediate attention of Congress, and that, while all the obligations of plighted faith are redeemed, the embarrassments which impede the settlement of this magnificent Territory may be speedily removed.

I have the honor to be, sir, respectfully, your obedient servant,

ISAAC I. STEVENS,

Governor of the Territory of Washington.

N. B.—I enclose copies of a letter from W. F. Tolmie, esq., agent of the Puget's Sound Agricultural Company, dated December 27, 1853, protesting against the views presented in my circular letter of December 20, 1853, and of my answer thereto, dated January 9, 1854, in which those views are maintained. I have also received from Chief Factors Ogden and McTavish a reply to my circular letter, as aforesaid, solemnly protesting against any invasion of their rights, and referring my letter to the superior officers of the company for the necessary action. I regret that this letter was left at Olympia.

The accompanying report of Colonel Isaac N. Ebey, as to the value of Fort Vancouver and the Cowlitz farms, gives a lively picture of the conflicting character of claims to land at Fort Vancouver. His estimate of Fort Vancouver and its dependencies is \$32,000.

FORT NISQUALLY, *December 27, 1853.*

SIR: I have had the honor to receive your communication of the 20th instant, calling my attention to certain views entertained by the general government of the United States as to the rights and privileges secured to the Hudson's Bay Company and the Puget's Sound Agricultural Company by the treaty ratified between Great Britain and the United States on the 5th of August, 1846.

With regard to what is set forth in your letter as to the possessory rights of the Hudson's Bay Company, I hereby solemnly protest against such views as almost entirely frittering away the very ample rights secured to said company by the treaty of 1846, as understood by several of the highest legal authorities in the United States and British North America. More especially do I protest against that view of the case which would go to deprive the Hudson's Bay Company of the right of trading with the Indians, and I conceive it in the utmost degree improbable that the high contracting parties—the framers of the treaty—ever contemplated denying the company one of the most important rights it possessed. Had such been the intention of the distinguished men who settled the terms of the treaty, an exception would have been made as to trade with Indians in the article granting to the Hudson's Bay Company all the rights they possessed at the date of the treaty, and inasmuch as no such exception was then made, I contend that, according to acknowledged principles of international law, subsequent restrictions and limitations cannot justly be sustained.

Ever since the terms of the treaty between Great Britain and the United States, ratified August 5, 1846, became known in this part of the world, I have claimed, on behalf of the Puget's Sound Agricultural Company, the tract of country of which, as farms, lands, or otherwise as property, the said company, by its agents, was in the sole and exclusive use and occupancy at the date of said treaty, and for a long time previously. I have claimed no land abandoned prior to the date of the treaty nor any primarily occupied subsequently.

While on this subject, I beg to call your attention to sundry encroachments on the company's rights by American citizens who, chiefly since the year 1850, despite my written notifications that they were trespassing on the company's lands, have settled on the prairies between the Nisqually and the Pruyallip rivers, all which are included in the Puget's Sound Agricultural Company's claim.

The evils thence arising are manifold; in some instances our inclosed lands under cultivation have been taken possession of; more frequently the rails forming our sheepfolds and other inclosures have been appropriated by the settlers, who have enclosed and ploughed up all the best spots of pasture lands.

They prevent our shepherds from pasturing sheep near their farms, and it has long been a custom with several to shoot the company's cattle and even riding horses, when feeding near their houses and enclosures.

Another mischievous custom, pretty generally adopted, has been to hunt the company's cattle into the woods with dogs whenever herds grazing used to approach a settler's fields.

In a considerable degree owing to the practices, our cattle have been

rendered much wilder than they were in 1846, when we were in the habit of driving with ease cattle from the remotest corners of the pasture grounds into parks at this place.

In thus showing that the Puget's Sound Agricultural Company, have, for some years back, sustained great and increasing loss in consequence of the various encroachments above mentioned, I must in justice add, that several persons settled on the company's lands have exhibited a consideration and forbearance highly creditable.

Doubtless the settlers have complaints to make of pastures eaten bare and fields invaded by the company's live stock, but it must be borne in mind that the company, by the stipulations of the Oregon boundary treaty, as well as by provisions of the land donation act in force in Washington Territory, has the prior and sole right still to the lands it has, by its agents, so long occupied.

I will endeavor, as soon as possible, to furnish you with a copy of the company's articles of agreement, and can produce, whenever required, proof of all the foregoing statements relative to its affairs.

Submitting said statements to your impartial consideration,

I have the honor to remain, sir, your very obedient servant,

WILLIAM FRAZER TOLMIE,

*C. F. Hudson's Bay Company, agent Puget's Sound
Ag'l Company, Nisqually, Washington Territory.*

To his Excellency ISAAC I. STEVENS,

Governor of Washington Territory and Sup't. of Indian Affairs.

OLYMPIA, WASHINGTON TERRITORY,

January 7, 1854.

SIR: In accordance with your request to me, dated December 12, 1853, I proceeded to Fort Vancouver to enquire into the nature and extent of the Hudson's Bay Company's possessions at Fort Vancouver, and the Puget's Sound Agricultural Company's possessions at the Cowlitz, and make the following report, to wit:

The extent of the Hudson's Bay Company's possessions at Fort Vancouver, at the date of the treaty between the United States and Great Britain, were certainly not greater than was claimed for them by Mr. Ballenden, chief factor of the Hudson's Bay Company at Fort Vancouver, in a communication addressed by that gentleman to the surveyor general of Oregon Territory, on July 30, 1852. This tract of country certainly embraces every acre of land upon which a possessory right to the land could be claimed. Within that boundary the Hudson's Bay Company have a stockade fort, on the inside of which are ten-houses, eight of which were erected before the treaty of boundary between the United States and Great Britain, and two have been erected since. There are about twenty cabins built outside the enclosure, and a large ware-house near the bank of the river. The buildings on the inside the enclosure are so old, and the timbers and materials of which they are constructed so decayed, as render them almost wholly valueless. The cabins on the outside the enclosures are, with few exceptions, built of slabs, and were erected by the servants of the

company for their own convenience ; they are mostly old, dilapidated huts, most of which are untenanted and are left to decay.

The lands in cultivation about Fort Vancouver at the date of the treaty did not exceed two hundred and fifty acres ; since that time many of the enclosures have been broken up, and lands over cultivated now all a waste. Above Fort Vancouver, and near the Columbia river, the Hudson's Bay Company have a grist and saw-mill. The grist-mill was erected in 1836, and is now worthless, or nearly so, the value of which is little if any more than old machinery. There was a new mill frame erected at this place in 1847, that has never been completed or put in operation. At this mill are some other improvements ; there is a store house and miller's house ; these houses are log houses with shingle roofs.

The saw-mill that is now in operation was built since the treaty.

In the vicinity of those mills, at the date of the treaty, the Hudson's Bay Company had about two thousand acres of land in cultivation, with farm houses, barns, &c. Since that time the cultivating land and enclosures have been reduced to about one thousand acres, and the buildings left to dilapidation and decay. These, as far as I can ascertain, embrace the whole of the Hudson's Bay Company's improvements in the vicinity of Fort Vancouver, if we except a few sheep-pens that were at one time on the possessions below the fort. These have long since been abandoned.

I cannot estimate the value of the improvements in and about Fort Vancouver at more than the sum of twenty-five thousand dollars ; the improvements about the saw and grist-mills, including the mills, dwelling-houses, storehouses, farms, barns, &c., at seven thousand dollars, making in all thirty-two thousand dollars.

To the second inquiry I would state, that in the vicinity of Fort Vancouver the possessions of the Hudson's Bay Company have not been increased since the date of the treaty.

To the third inquiry I would state, that I think a very considerable portion of the Hudson's Bay Company at Fort Vancouver, held by them at the date of the treaty, have become obsolete by abandonment. At the date of the treaty and prior to that time all the country below Fort Vancouver was used by the Hudson's Bay Company as grazing grounds for their herds of cattle, sheep, horses and hogs, with the necessary huts to shelter their shepherds and herdsmen. This section of country has been abandoned for this use or any other by the company for years past.

Their possessions in the vicinity of the mills and mill plain have also to a great extent been abandoned. They have now a few head of cattle in that vicinity, driven down from Fort Wallah Wallah last summer.

To the fourth inquiry, as "to the nature and extent of claims of settlers under the donation act of the United States, approved September 27, 1850, upon lands claimed by said companies," I would state, that most of the lands that are valuable for agricultural operations within the boundaries claimed by the Hudson's Bay Company are claimed and held by settlers under said act.

The claim of land upon which Fort Vancouver stands is at this time

claimed by Bishop Blanchette, bishop of Nisqually, as a Catholic mission, by virtue of a provision in the act of Congress organizing Washington Territory, approved March 3, 1853. The bishop has notified the surveyor general of Oregon of his claim, embracing six hundred and forty acres. The same tract of land is claimed by James Graham, chief clerk to the Hudson's Bay Company at Fort Vancouver, to the amount of six hundred and forty acres. Mr. Graham is a naturalized citizen. There may be other claims upon this tract of land by citizens under the donation law; if so, I was unable to find them.

The county of Clark has for a number of years claimed the right of pre-emption to one hundred and sixty acres of this tract of land, under authority of an act of Congress giving county seats the right of pre-emption to one hundred and sixty acres of land on lands belonging to the general government. The authorities of Clark county, I believe, have made sales of lots to individuals, on this tract of land, and received considerable sums of money for the same. Neither the authorities of the county nor individuals have made improvements on the same.

Over all these claims, the United States have made a military reservation of six hundred and forty acres, embracing most of the land claimed by the conflicting claimants.

The land claim immediately above, and joining the above tract, is claimed by Forbes Barclay, as a British subject. This tract embraces six hundred and forty acres. I could not learn that Mr. Barclay had ever resided on the land. Some years ago he was acting physician for the Hudson's Bay Company, at Fort Vancouver, but has for several years past, and now resides at Oregon city, Oregon Territory. I believe he made some improvements on this tract of land. The Hudson's Bay Company have the principal part of the cultivating lands at Fort Vancouver. On this claim they at present cultivate near two hundred acres of land on the same.

This same tract of land is claimed by a Mr. Ryan, a citizen of the United States, under the authority of the donation law. Mr. Ryan claims six hundred and forty acres; has a good farm house, and out-houses, &c. He has about thirty acres of land in cultivation.

The claim above this is a tract of six hundred and forty acres, claimed by Mr. Nye, who is an American citizen. The most of the improvements on this claim were made by a servant of the Hudson's Bay Company for himself. He sold the claim to Peter Skeen Ogden, governor of the Hudson's Bay Company, who transferred the claim to Mr. Switsler. Switsler transferred the claim to Nye. Nye has made some improvements. On this claim there are some ten or twelve acres of land enclosed and cultivated; also, a house and barn.

Daniel Harvy claims, (a British subject,) under the treaty of boundary between the United States and Great Britain, a tract of land about four miles square, including the grist and saw-mills and the mill plain upon which is located the Hudson's Bay Company's farms. William F. Crate, who is now, and has been for some time, in the employ of the Hudson's Bay Company, is a naturalized citizen, and claims six hundred and forty acres of land, including the grist-mill, under the donation law. He has made no improvements. I believe, however,

there are a house and barn, and about fifty acres in cultivation. Gabriel Barktroth claims six hundred and forty acres of land, under the donation law, including the Hudson's Bay Company's saw-mill. He is a citizen. A part of this claim is claimed by Mr. Maxon, who is an American citizen, and claims six hundred and forty acres of land. His dwelling-house is on the saw-mill claim. The balance of Mr. Maxon's claim is on the Camas plain, on which the Hudson's Bay Company has had no improvements. On this plain a number of Americans have settled, among whom are Sam. Predstel, Thomas Fletcher, Levi Dothit, Mr. Shaw, John Predstel, Valentine Predstel, Jacob Predstel, and Daniel Ollis. These persons have very little improvements except their houses.

Peter Dunnington has the claim above Nye's on the river. His improvements consist of a house and about six acres in cultivation.

John Stringer's claim, on which are a house and barn, and about fifty acres in cultivation.

The widow and heirs of Daniel V. Short claim six hundred and forty acres. On this claim there is a good farm house and about fifty acres in cultivation. This claim was taken in 1847.

George Maleek, an American citizen, claims six hundred and forty acres under the donation law. His improvements consist of a dwelling house and about thirty acres in cultivation.

Charles Prew, a naturalized citizen and late servant of the Hudson's Bay Company, claims the same. Prew took the claim in 1849. He quit the H. B. C.'s service in the year 1848.

Maleek took his claim in 1848, and left it and returned to it again in 1851.

Mr. Prew also holds the same claim under a lease from the Hudson's Bay Company.

Francis Laframboise, a naturalized citizen, claims six hundred and forty acres under the donation law. His improvements consist of a house and barn, and about fifty acres of land in cultivation. Mr. Laframboise also holds as a lessee of the Hudson's Bay Company.

Abraham Roby claims six hundred and forty acres under the donation law. His improvements consist of a house and five acres of land in cultivation. Mr. Roby also holds as a lessee of the Hudson's Bay Company.

St. Andrew claims six hundred and forty acres of land under the donation law. His improvements consist of a house and five acres of land in cultivation. Mr. St. Andrew also holds as a lessee of the Hudson's Bay Company.

James Petram claims six hundred and forty acres of land under the donation law. His improvements consist of a good house and barn, and about fifty acres of land in cultivation. Mr. Petram also holds as a lessee of the Hudson's Bay Company.

Seepalewa claims three hundred and twenty acres as an American citizen. His improvements consist of a dwelling house and five acres of land in cultivation.

Isaac E. Bell claims six hundred and forty acres of land under the donation law. His improvements consist of a dwelling house and five acres of land in cultivation. Mr. Bell is an American citizen.

John C. Allman claims six hundred and forty acres of land under the donation law. His improvements consist of a house and about twenty-five acres of land in cultivation.

This claim is also claimed by Edward Spencer, as a British subject. Mr. Spencer has no improvements, except the square of a log cabin without roof. Mr. S. has never resided on the land.

T. P. Dean and Malky claim each one hundred and sixty acres of land under the donation law. Their improvements consist of two houses and about ten acres of land in cultivation.

The above claim is claimed by the heirs of Foster, who claims as a British subject.

William H. Dillon claims six hundred and forty acres under the donation law. He is an American citizen, and his improvements consist of a house and about sixty acres in cultivation. The same land is claimed by a Canadian half-breed as a British subject.

David Sturgess claims six hundred and forty acres of land under the donation law. His improvements consist of a house and thirty-five acres of land in cultivation. This land is also claimed by George Harvey, a British subject, residing at Vancouver's island. He superintended the salmon operations at this place for the Hudson's Bay Company.

The company still continues to take and salt salmon at this place. The company have no improvements at this fishery.

George Batty claims three hundred and twenty acres of land under the donation law. His improvements consist of a house and ten acres of land in cultivation.

James Bowers claims three hundred and twenty acres of land under the donation law. His improvements consist of a house and about ten acres in cultivation.

Mr. Linsey claims three hundred and twenty acres of land under the donation law. His improvements consist of three or four acres of land in cultivation, and a house.

John Dillon claims three hundred and twenty acres of land under the donation law. His improvements consist of a house and five acres of land in cultivation.

Ira Patterson's claim is a part on the Hudson's Bay Company's claim. He claims three hundred and twenty acres of land under the donation law. His improvements are a house and twenty acres of land in cultivation.

Samuel Matthews claims three hundred and twenty acres of land under the donation law. His improvements consist of a house and thirty acres of land under cultivation.

Clark Short claims three hundred and twenty acres of land under the donation law. His improvements consist of a log dwelling house.

Michael Trobb claims one hundred and sixty acres of land under the donation law. His improvements consists of a house.

John B. Lee claims one hundred and sixty acres of land under the donation law. Improvement a house.

George Morrow claims one hundred and sixty acres of land under the donation law. His improvement is a house.

J. L. Myers claims three hundred and twenty acres of land under the donation law. His improvements consist of a house and thirty acres of land in cultivation.

George Weber claims three hundred and twenty acres of land under the donation law. His improvements consist of a house and eighty acres of land in cultivation.

Benjamin Olney claims three hundred and twenty acres of land under the donation law. His improvements consist of a house and thirty acres of land in cultivation.

Job Fisher claims one hundred and sixty acres of land under the donation law. His improvements consist of a house and twenty-five acres of land in cultivation.

William M. Simmons claims six hundred and forty acres of land under the donation law. His improvements consist of a house and forty acres of land under cultivation.

Alexander Davis claims one hundred and sixty acres of land under the donation law. His improvements consist of a house and thirty acres of land in cultivation.

Mr. Pembrun is living on Ryan's claim, as the lessee of Dr. Barclay, who claims as a British subject.

The improvements of the Hudson's Bay Company at the mouth of the Cowlitz consist of two large warehouses. These buildings were erected before the treaty, on the bond claim of Seabault, who granted to the Hudson's Bay Company five acres of land of his claim. Since that time Seabault has sold out his claim to other parties. The buildings are of little value, as they stand on the bank of the Cowlitz river, where annual freshets are wearing the bank so much that the houses will tumble in the water. I do not think the buildings are worth exceeding one thousand dollars.

The Puget's Sound Agricultural Company claims a tract of land at what is called the Cowlitz Farms, embracing about three thousand acres. The description of the claim has been filed in the office of the surveyor general of Oregon Territory, and described by metes and bounds within three limits. The company claims to eight thousand acres of land, less or more, of this about fifteen hundred acres are in cultivation, with the usual buildings, barns, &c. The buildings are becoming old and dilapidated. The is of but little real value. These improvements and lands I would not value at above twenty-five thousand dollars.

All of which is respectfully submitted.

ISAAC N. EBNEY.

Governor STEVENS.

EXECUTIVE OFFICE,

Olympia, January 9, 1854.

SIR: I have the honor to acknowledge the receipt of your letter of December 20, setting forth the views of the general government of the United States in reference to the rights guarantied by the treaty of

August 5, 1846, to the Hudson's Bay Company and the Puget's Sound Agricultural Company.

Without intending to question at all your right to protest against these views as frittering away the very ample rights secured to said company by the treaty of 1846, I have to state that a course based upon these views, as indicated by my letter of December 20, will be strictly and firmly pursued.

You especially protest against that view of the case which would go to deprive the Hudson's Bay Company of the right of trading with the Indians; and you state further, (to quote your own words:) "I conceive it in the utmost degree improbable that the high contracting parties, the framers of the treaty, ever contemplated denying the company one of the most important rights it possessed."

I conceive it to be very clear that the high contracting parties intended that no such right should continue in the Hudson's Bay Company, from the simple fact that they have not guarantied it in the treaty, but are totally silent upon the subject. This is more apparent, since you state it to be one of the most important rights it possessed. The plenipotentiaries on the part of Great Britain certainly were not entirely regardless of the interests or ignorant of the nature of the Hudson's Bay Company.

The treaty declares that in future *appropriations of the territory, &c.*, the *possessory rights* of the Hudson's Bay Company, and of all British subjects who may be in the *occupation of land or other property*, lawfully acquired within the said territory, shall be respected. The Hudson's Bay Company, prior to the treaty, may have had a right to trade with the Indians. But it is not the *rights* of the Hudson's Bay Company, but the *possessory rights* of the Hudson's Bay Company, and of all British subjects who may be in the *occupation of land*, that are to be respected in the future appropriations of the territory. The Hudson's Bay Company stand upon the same footing as all British subjects in the occupation of land. The rights and privileges secured to each are the same. It surely will not be claimed that the right to trade is a possessory right. These are terms of plain and technical signification. Mr. Rose, queen's counsel, of Montreal, defines this right to be "*such a fixed right in the soil as would in law prevent its alienation to others.*" To attempt to embrace the right to trade, as implied in the expression, "possessory rights," would be to negative the plain terms of the treaty, to admit all the other rights of the Hudson's Bay Company under its charter, the right to make laws and to have civil and criminal jurisdiction; and the effect of the treaty would be to vest the sovereignty of the soil in the Hudson's Bay Company, and not in the United States.

Furthermore, it would have shown on the part of the United States a very great interest in the welfare of the Hudson's Bay Company to have guarantied to a foreign corporation a right which they do not grant to their own citizens, except by special license.

You state further, that ever since the terms of the treaty became known, you have *claimed*, on behalf of the Puget's Sound Agricultural Company, the tract of country of which as farms, lands, or otherwise as property, the said company, by its agents, was in the sole and exclusive use and occupancy at the date of the treaty, and for a long

time previously. My letter, I conceive, was sufficiently explicit in this matter, nor do I think any doubt can arise from the treaty.

The treaty does not confirm whatever you may have claimed from the time the treaty became known, but confirms the *farms and lands* of the Puget's Sound Agricultural Company. "Farms and lands" are well understood terms, and all such as have been in the sole and exclusive use and occupancy of the Puget's Sound Agricultural Company will be confirmed.

The trespasses and other wrongs of which you complain are matters for the courts of justice. The treaty is, and has all the force of a law of the United States, and as such is to be respected and obeyed. As alien friends our courts are thrown open to you, and there your remedy is to be sought for the violation of your rights.

In conclusion, I take the liberty of again calling your attention to the matters referred to in my letter of December 20, as to the nature and value of the possessions of the Hudson's Bay Company, and will state that I am desirous of procuring information as to their value, and will be glad to receive any communication from you on that subject.

I am, very respectfully, your obedient servant,

ISAAC I. STEVENS.

WILLIAM F. TOLMIE, Esq.,

Chief Trader Hudson's Bay Company,

Agent Puget's Sound Agricultural Company.